



State of Wisconsin
Department of Health Services

Jim Doyle, Governor
Karen E. Timberlake, Secretary

Testimony of Diane Welsh
Department of Health Services
Senate Bill 493

Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing
February 8, 2010

Madam Chair and members of the Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing Committee, thank you for considering SB 493. My name is Diane Welsh and I am the Department of Health Services Chief Legal Counsel. I'll briefly describe why the Department wants these changes.

There are two problems with the language of the current statutes:

Current law provides for committing a person who is found to be a sexually violent person to the custody of DHS. Upon initial commitment, a sexually violent person is placed in institutional care and may subsequently be placed on supervised release or discharged from commitment. Every 12 months DHS must appoint an examiner to examine the person. Under current law, at the time of the exam the person may retain his or her own examiner or retain the court appointed examiner. However, the statute also states that the court is not required to appoint an examiner if the examination conducted by the department appointed examiner supports supervised release or discharge of the sexually violent person.

As you see, one part of the law indicates that the examiner may be retained or appointed at the time of a reexamination. The very next part of the section suggests that the Court may wait until *after* the examination has been conducted and *after* the report has been filed *before* the Court would appoint an examiner. These inconsistencies have led to confusion in the Courts and inefficiencies in the review of these cases.

Second, DHS is responsible for the control, care, and treatment of a sexually violent person committed to DHS and placed on supervised release. The statute states that during the first year a sexually violent person is placed on supervised release, he must remain at his home unless under the direct supervision of a Department of Corrections escort. A revision is needed to correctly identify DHS as the department (instead of the Department of Corrections) that has custody of the persons on supervised release and therefore should be responsible for this supervision.

The bill

The language eliminates the inconsistency in the statute by removing the language that court need not appoint an examiner for a sexually violent person at the time of the required annual examination if the annual examination conducted by the DHS appointed examiner supports supervised release or discharge. It also clarifies that DHS, not the Department of Corrections, supervises sexually violent persons on supervised release.

Thank you for your consideration. Please feel free to ask me any questions you may have.